THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.12038 OF 1997

Dated:26.07.2006

Between:

The Depot Manager,

APSRTC, Nalgonda ...

Petitioner

And:

The Labour Court-III, Hyderabad,
Reptd by its Presiding Officer and another.

...

Respondents

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.12038 OF 1997

ORDER:

In this writ petition, the Andhra Pradesh State Road Transport Corporation (for brevity 'the Corporation') questions the order, dated 09.12.1996, passed in E.P.No.11 of 1996 in I.D.No.109 of 1986 on the file of the Labour Court-III, Hyderabad, in directing the Corporation for the reinstatement of the second respondent-workman into service pursuant to the award, dated 08.10.1987, in I.D.No.109 of 1986 on the file of the Additional Industrial Tribunal-cum-Labour Court, Hyderabad (for short 'the Tribunal').

The brief facts of the case are that the second respondent was appointed as a Conductor by the Depot Manager, Nalgonda, and as he was involved in serious

cash and ticket irregularities case, after conducting domestic enquiry, on 21.06.1984 he was removed from service by the order of the Depot Manager, Nalgonda. The second respondent questioned the said order of removal in I.D.No.109 of 1986 before the Tribunal. The Tribunal held that the perusal of the record indicates that the second respondent was removed from service for no fault of him and the Management failed to prove the charge framed against the second respondent and accordingly, the award was passed for immediate reinstatement of the second respondent into service, with continuity of service and attendant benefits with 75% of the back wages, and further, ordered that the order of reinstatement should be given not later than one month from the date of receipt of written request from the second respondent for reinstatement. It appears that aggrieved by the said award, the Corporation filed a writ petition and ultimately, the same was dismissed. Neither of the parties have furnished any particulars about the date of filing of the writ petition and its disposal and the writ appeal, if any, filed. Thus, the award, dated 08.10.1987, passed by the Tribunal in I.D.No.109 of 1986 has become final. Thereafter, the second respondent filed E.P.No.11 of 1996 before the Labour Court-III, Hyderabad, for execution of the award under Section-11-B of the Industrial Disputes Act, 1947, stating that the award, dated 08.10.1987, in I.D.No.109 of 1986 has not been

implemented.

It is the case of the second respondent that he was appointed by the Depot Manager, Sanga Reddy, from 15.02.1985 i.e., much prior to the award, dated 08.10.1987, in I.D.No.109 of 1986, and he was subsequently removed by the Depot Manager, Sanga Reddy, on 05.07.1987 for some cash and ticket irregularities. Further, it is the case of the second respondent that his subsequent employment and removal has nothing to do with the implementation of the award in I.D.No.109 of 1986.

Insofar as the contention of the Corporation that the award shall remain in operation for a period of one year from the date on which it become enforceable under Section-17-A is concerned, I am of the opinion that the settlements and awards arrived at between the employer and the trade union has nothing to do with the award passed by the Industrial tribunal or the Labour Court. It is the case of the workman that the award, dated 08.10.1987, passed in I.D.No.109 of 1986 was not implemented. So far as the delay is concerned, it is stated that earlier the Corporation questioned the said award in a writ petition and was unsuccessful and therefore, the E.P. was filed within time from the date when it attained finality.

Insofar as the subsequent appointment and the emoluments of the second respondent are concerned, I am of the opinion that the Labour Court rightly observed

that the Corporation is entitled to deduct the payments made to the second respondent for the period during which he was in service pursuant to the second appointment and the same amount is to be decided by the Corporation while implementing the award passed in the said I.D. But, the Corporation cannot refuse to implement the said award on the ground that the second respondent secured another job, without disclosing the earlier removal, during the pendency of the said I.D., and that he was removed subsequently. The Labour Court also rightly observed that the Corporation cannot refuse to implement the said award and accordingly, the order has been passed giving one month time for the Corporation to reinstate the second respondent into service pursuant to the award and it was also left open for the Corporation to take appropriate action against the second respondent as per the Rules of the Corporation after implementing the said award and also take further action against the second respondent herein, for misconduct, if any, committed by him.

For the foregoing reasons, I am of the opinion that the impugned order passed in the E.P. does not suffer from illegality, infirmity or irregularity warranting interference by this Court. Therefore, I do not find any merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There

shall be no order as to costs.

(V.ESWARAIAH, J)

26.07.2006
DR